

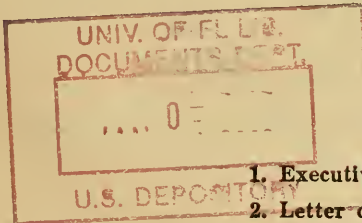
NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION
FOR THE
**LADDER MANUFACTURING
INDUSTRY**

AS APPROVED ON NOVEMBER 8, 1933

BY

PRESIDENT ROOSEVELT



1. Executive Order
2. Letter of Transmittal
3. Code

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EXECUTIVE ORDER

CODE OF FAIR COMPETITION FOR THE LADDER MANUFACTURING INDUSTRY

An application having been duly made, pursuant to and in full compliance with the provisions of title I of the National Industrial Recovery Act, approved June 16, 1933, for my approval of a Code of Fair Competition for the Ladder Manufacturing Industry, and hearings having been held thereon and the Administrator having rendered his report containing an analysis of the said code of fair competition together with his recommendations and findings with respect thereto, and the Administrator having found that the said code of fair competition complies in all respects with the pertinent provisions of title I of said act and that the requirements of clauses (1) and (2) of subsection (a) of section 3 of the said act have been met:

NOW THEREFORE, I, Franklin D. Roosevelt, President of the United States, pursuant to the authority vested in me by title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do approve the report and recommendations and adopt the findings of the Administrator and do order that the said code of fair competition be and it is hereby approved.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,

November 8, 1933.

Approval recommended:

HUGH S. JOHNSON,

Administrator.

(III)

CODE OF FAIR COMPETITION FOR THE LADDER MANUFACTURING INDUSTRY

ARTICLE I—PURPOSE

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are submitted as a Code of Fair Competition for the Ladder Manufacturing Industry, and upon approval by the President shall be the standard of fair competition for this industry.

ARTICLE II—DEFINITIONS

The term "industry" as used herein is defined to mean the business of manufacturing and selling by such manufacturers, of ladders and ladder products in the United States.

The term "member of the industry" includes anyone engaged in the industry, either as an employer or on his own behalf.

The term "member of the Code" includes any member of the industry who shall signify assent to this Code.

The term "employee" as used herein includes any person engaged in any phase of the industry in any capacity in the nature of employee irrespective of the method of payment of his compensation.

The term "employer" as used herein includes anyone for whose benefit such an employee is so engaged.

The term "institute" means the American Ladder Institute, a corporation organized under the laws of the State of Ohio, with its principal office at Cleveland, Ohio, the membership in which is composed of manufacturers of ladders and ladder products.

The term "ladder products" means scaffolding, hangers, trestles, and other similar items used in conjunction with ladders.

The term "The National Industrial Recovery Act" or "The Act" means the National Industrial Recovery Act as approved by the President June 16, 1933.

The term "the President" means the President of the United States.

The term "the Administrator" as used herein means the Administrator appointed by the President under the Act and at the time in office.

The term "effective date" as used herein means the tenth day after this Code shall have been approved by the President of the United States.

The term "Code Authority" means the committee appointed to administer this Code.

ARTICLE III—HOURS

(A) No employee shall be permitted to work in excess of 40 hours in any one week or 8 hours in any 24-hour period; provided, however, that in peak periods of not more than 8 weeks during any six months, hours may not exceed 48 in any one week, or 6 days per week. In such cases, one and one third times the regular rate of pay shall be paid for hours worked in excess of 8 hours per day.

(B) The maximum hours fixed in the foregoing section shall not apply to employees on emergency maintenance and emergency repair work, who shall be paid one and one third times the regular rate for hours worked in excess of 8 hours per day, nor shall it apply to executives and supervisors receiving \$30 per week or more, and outside salesmen when not employed on productive labor.

(C) No employee shall be permitted to work more than six days in any seven-day period.

(D) No employee shall be classified in any one of the exempted classes hereinabove defined unless he performs functions identical with those performed by employees thus classified on June 16, 1933.

(E) Each member of the industry shall elect the date at which the six months' periods begin, and shall immediately inform the Code Authority as to the election made. If any member of the industry does not notify the Code Authority within ten days of the effective date of this Code, then, in that event, the first six months' period for such members of the industry shall begin on the effective date of this Code.

(F) No employee shall work or be permitted to work for a total number of hours in excess of the number of hours prescribed for each week and day, whether employed by one or more employers.

ARTICLE IV—WAGES

(A) No employee, except as hereinafter provided, shall be paid at less than the rate of 35 cents per hour.

(B) Office employees shall be paid not less than \$15.00 per week.

(C) Equitable adjustment in all pay schedules of factory employees above the minimum shall be made not later than 30 days from the effective date by any employers who have not theretofore made such adjustments, and the first monthly reports of wages required to be filed with the Administrator under this Code shall contain all wage increases made since May 1, 1933.

(D) This article establishes minimum rates of pay, regardless of whether the employee is compensated on the basis of a time rate, piece rate, or otherwise.

ARTICLE V—GENERAL LABOR PROVISIONS

(A) No person under 16 years of age shall be employed in this industry, nor anyone under 18 years of age at operations or occupations hazardous in nature or detrimental to health.

(B) Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of

labor, or their agents, in the designation of such representatives, or in self-organization, or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(C) No employee and no one seeking employment shall be required as a condition of such employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing.

(D) Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

(E) Within each State this Code shall not supersede any laws of such State imposing more stringent requirements on employers regulating the age of employees, wages, hours of work, or health, fire or general working conditions than under this Code.

(F) Each employer shall post in a conspicuous place in each shop and office a copy of the labor and administrative provisions of this Code.

ARTICLE VI—ADMINISTRATION

To further effectuate the policies of the Act, a Code Authority is hereby set up to cooperate with the Administrator in the administration of the Code.

A. ORGANIZATION AND POWERS

(1) The Board of Trustees of the American Ladder Institute together with such representatives as the President or Administrator may designate pursuant to paragraph (3) of this Section A is hereby designated as such Code Authority; provided, that no inequitable restrictions upon membership in the American Ladder Institute shall at any time be imposed.

(2) With a view to keeping the Administrator informed as to the observance or nonobservance of this Code and as to whether appropriate steps are being taken to effectuate the purposes of the Act, each member of the Industry shall furnish certified reports to designated independent agents of the Code Authority when and in such form as it shall, subject to the approval of the Administrator, prescribe. If the Code Authority should have reason to believe that any of the reports submitted are inaccurate, such reports may be verified by examination of the relevant books and records of the member of the Industry who has submitted such reports, by a disinterested and impartial agency designated by the Code Authority, with the approval of the Administrator. Such agency must agree to keep all information regarding individual manufacturers strictly confidential, except that any violation of this Code shall be reported in detail to the Code Authority and to the Administrator.

(3) The President or the Administrator may designate from one to three representatives who shall thereupon become members of the Code Authority with all the powers of members of such Code Authority with the exception of the power to vote, and such representative or representatives shall have access to all data and statistics collected by the Code Authority, and hereinbefore provided. Such representatives shall serve without expense to the Industry,

and together with the Administrator shall be given notice of and may sit at all meetings of the Code Authority.

(4) In addition to information required to be submitted under this Code, there shall be furnished to Government agencies such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act.

(5) Where the costs of executing contracts entered into in the industry prior to the approval of this Code by the President are increased by the application of the provisions thereof, it is equitable and promotive of the purposes of the Act that appropriate adjustment of such contracts to reflect such increased costs be arrived at by arbitration or otherwise, and the Code Authority is constituted as an agency to assist in effecting such adjustments.

B. PARTICIPATION

Each member of the Code shall be entitled to participate in the code activities of the Code Authority to the same extent as a member of the American Ladder Institute. Each member of the Code shall contribute his proportionate share toward the cost of preparation and administration of the Code, including the cost of the assembly and analysis of such reports and data as may be required under the Code and the cost of maintenance of the administrative agency and its activities, either by becoming a member of the American Ladder Institute or by paying to the Institute amounts equal to such portion of the dues from time to time required of members of the Institute in like situation as is used to defray the expense of administration of the Code.

C. CLASSIFICATION OF CUSTOMERS

In order to provide for the orderly distribution of ladders and ladder products, the trade shall be divided into the following classifications, based upon differences in cost and services rendered. The customers falling within each classification shall receive such trade discounts from list prices as shall be independently filed with the Code Authority by the individual members of the industry.

(1) *Consumer*.—A consumer shall be defined as a buyer of ladders or ladder products substantially all of which are purchased for his own use and not for resale.

(2) *Retailer*.—A retailer shall be defined as a buyer of ladders or ladder products who buys to resell and whose business is designed for and built upon the selling of goods to consumers.

The following classes of retailers may be distinguished from regular retailers for the purpose of establishing prices and/or discounts: Mail-order houses, chain stores, department stores, cooperative association of dealers and mill supply dealers.

(3) *Jobber*.—A jobber shall be defined as a buyer of ladders or ladder products who buys to sell to retailers, and who carries a representative stock of ladders, and whose salesmen operate in the territory served by such jobber for the purpose of selling to retailers.

(4) On the basis of the foregoing definitions, the Code Authority may prepare a list of jobbers for distribution to all known members of the industry. Each member of the industry shall thereupon sub-

mit to the Code Authority for inclusion on such list the names of customers whom he believes qualify as jobbers. The Code Authority shall add to the list those names submitted which it finds qualified as jobbers under paragraph (3) of this section C. Such final list of jobbers shall be a *prima facie* accurate and complete list of such persons as conform to the definition of jobber in said paragraph (3). Such list of jobbers shall be kept current by the Code Authority; and each member of the industry shall continue to report the names of any new customers whom he believes qualify as jobbers.

(5) In the event that a question arises regarding the proper classification of any customer or prospective customer, the decision of the Code Authority, subject to review by the Administrator, shall be *prima facie* correct.

(6) If the foregoing classifications of customers, or any application thereof, should bear unjustly upon any individual customer or member of the industry, such customer or member of the industry may appeal to the Code Authority, subject to review by the Administrator, or direct to the Administrator, which, after investigation, may provide for such exemption or modification as justice and convenience may require. In the interim between such appeal and the ruling of the Code Authority or Administrator, the classification in effect at the time of such appeal shall continue in effect.

D. COST AND PRICE-LIST PROHIBITIONS

No member of this industry shall sell or exchange any ladders or ladder products at a price or upon such terms and conditions as will result in the customer paying for such goods less than the delivered cost to the seller as determined by a uniform cost accounting system to be set up by the Code Authority, subject to the approval of the Administrator, except as hereinafter provided.

The Code Authority shall promptly cause to be developed and submitted to the Administrator a uniform system of cost accounting designed to make possible the accurate determination by each member of the industry of his own individual cost.

Upon approval by the Administrator of such system of cost accounting, complete advice concerning it shall be distributed by the Code Authority to all members of the industry. Thereafter no member of the industry shall sell or exchange any ladders or ladder products at a price below his own individual cost, except—

to meet a lower price previously quoted or posted by a competitor. If such member, believing that such competitor is selling in violation of the Section, has complained to the Code Authority or to a properly authorized agency thereof, such member may meet the price of such competitor as aforesaid, only pending action upon such complaint.

In the interim between the effective date and the date the Code Authority directs that the uniform cost-accounting system be placed in use, no member of the industry shall sell his ladders or ladder products at a price less than his individual cost as determined by such cost system or method of determination of costs as is being used by him at the time the Code becomes effective, except as hereinbefore provided.

Since it has been the general recognized practice of the industry to sell products on the basis of printed price lists with discount sheets distributed to the trade, each member of the industry shall, within ten days of the effective date of this Code, file with the Code Authority price lists and discount sheets, showing his current prices and discounts to the various classes of customers as hereinbefore defined. Revised price lists and discount sheets may be filed from time to time thereafter with the Code Authority by any member of the industry, to become effective upon a date specified by such member of the industry, which date shall not be less than ten days after the filing of such revised prices at the office of the Code Authority. Copies of such revised prices, with notice of the effective date, shall be immediately sent to all known members of the industry, who may file, if they so desire, revisions of their price lists and/or discount sheets, which, if filed not less than five days previous to such effective date, shall take effect upon the date when the revised price list or discount sheet first filed shall go into effect.

No member of the industry shall sell or exchange any ladders or ladder products at prices lower or discounts greater or on more favorable terms than the schedules of such member on file at the office of the Code Authority as hereinbefore provided.

The operation of the foregoing provisions shall at all times be subject to the approval of the Administrator.

E. TRADE PRACTICES

The following shall be considered as unfair methods of competition in this industry:

(1) The defamation of competitors by imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or other misrepresentations.

(2) Enticing away the employees of competitors with the purpose and effect of hampering, injuring, or embarrassing competitors in their business. However, nothing herein contained shall prevent employees from seeking employment with other concerns.

(3) Any wilful attempt to induce a breach of any existing bona fide contract or any wilful attempt to prevent the performance of any contractual duty under any bona fide contract for the purchase or sale of ladders or ladder products.

(4) The entering into contracts for ladders or ladder products with purchasers without actual obligation on the part of the purchaser for a specified quantity or quality and/or merely for the purpose of securing to the buyer a special price which in effect discriminates between purchasers and tends to unreasonably restrain trade and injure competitors.

(5) The delivery of ladders which do not reasonably conform with the standard of samples submitted or representations made prior to securing the order, unless with the consent of the purchaser to a substitution prior to shipment.

(6) The entering into contracts which permit the buyer to cancel or provide for a reduced price in the event of a market decline and which do not permit the seller to cancel or provide for an enhanced price in the event of a market rise.

(7) Withholding from, or inserting in the invoice, anything which makes the invoice a false record, wholly or in part of the transaction represented on the face thereof.

(8) The payment or allowance of secret rebates, secret refunds, secret credits, unearned discounts, whether in the form of money or otherwise; or the acceptance of securities at more than the true market value as a means of effecting or concealing price discrimination.

(9) False statements, written or oral, concerning competitor's goods, or deceptive tests, or any act constituting a false statement as to the prices a competitor is quoting.

(10) The giving or offering to give, directly or indirectly, without other consideration therefor, money or anything of value to agents, employees, or representatives of customers or prospective customers, as an inducement to cause them to purchase or to contract for the purchase of ladders or ladder products from the maker of such gift or offer, or the selling or offering to sell other products at less than cost as an inducement to obtain the ladder business of such customers, or to influence them to refrain from dealing or contracting to deal with competitors. No allowances or payments shall be made to customers to cover advertising.

(11) The false marking or branding of ladders or ladder products, or any misrepresentation in connection with the advertising or sale of such items for the purpose of misleading purchasers.

(12) The making of false reports of capacity, production, costs, sales, orders, or shipments.

ARTICLE VII—GENERAL

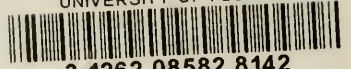
(1) Such of the provisions of this Code as are not required to be included therein by the National Industrial Recovery Act may, with the approval of the President, be modified or eliminated as changes in circumstances or experience may indicate. It is contemplated that from time to time supplementary provisions to this Code will be submitted for the approval of the President to prevent unfair competition in price and other unfair and destructive competitive practices and to effectuate the other purposes and policies of Title I of the National Industrial Recovery Act consistent with the provisions thereof.

(2) The Administrator shall have the right, on review, to disapprove or modify any action taken by the Code Authority.

(3) Violation by any member of this industry of any provisions of this Code is an unfair method of competition, and the offender shall be subject to the penalties imposed by this Act.

(4) This Code and all the provisions thereof are expressly made subject to the rights of the President, in accordance with the provisions of Subsection (b) of Section 10 of the National Industrial Recovery Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under Title I of said Act, and specifically, but without limitations, to the right of the President to cancel or modify his approval of this Code or any conditions imposed by him upon his approval thereof.

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